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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/538,043

12/21/2005

Yoel Lang

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23117

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06/14/2007

NIXON & VANDERHYE, PC

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ARLINGTON, VA 22203

EXAMINER

COHEN, AMY R

ART UNIT

PAPER NUMBER

2859

MAIL DATE

DELIVERY MODE

06/14/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/538,043	LANG, YOEL	
	Examiner	Art Unit	
	Amy R. Cohen	2859	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/08/05</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Objections

1. Claim 10 is objected to because of the following informalities:

Claim 10 depends from claim 1; however, the pre-calibrated markings are not positively claimed until claim 2. For purposes of prosecution, claim 10 is considered to depend from claim 2 in order to have proper antecedent basis for the pre-calibrated markings.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Hollander (U. S. Patent No. 4,100,681).

Hollander teaches an adhesive patch (1) containing an integral spirit level (Fig. 1), said adhesive patch comprising: a first transparent film (4) comprising an indented region (Fig. 2); a second film (3), having an upper surface that is attached to the lower surface of said first transparent film (Figs. 1-4), said that the indented region of said first film and the portion of said second film that lies immediately below said indented region together define a closed tubular structure (Figs. 1-4); level-indicating means (2, 5, 6) associated with said tubular structure; and adhesive means (8) for affixing the patch to a surface whose orientation is to be determined;

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wherein the level-indicating means provide an indication of the spatial orientation of the surface to which said adhesive patch is affixed (Col 1, lines 57-67, Col 2, lines 3-12).

Hollander teaches the adhesive path wherein the level-indicating means comprises: pre-calibrated markings (6) located either on the closed tubular structure or on the upper surface of the first transparent film alongside said tubular structure (Col 1, lines 53-56, Col 2, lines 3-12); and at least one visible indicator (2, 5) located within said closed tubular structure, wherein said visible indicator is either a sphere to is chosen from the group consisting of gas-liquid interface (Col 1, lines 43-56), liquid-liquid interface and gas-gas interface, wherein rotation of the surface to which said adhesive patch is affixed causes relative movement of said visible indicator and said calibrated markings (Col 2, lines 3-12).

Hollander teaches the adhesive patch where the closed tubular structure is provided in a curved shape (Figs. 1-4, the tube itself is curved, cross-section Figs. 2 and 3).

Hollander teaches the adhesive patch wherein the curved tubular structure contains either a liquid or a liquid (5) and a gas (2), and wherein the visible indicator is provided by a sphere (sphere of gas 2), such that upon rotation of said patch, the pre-calibrated markings move relative to said sphere (Col 2, lines 3-12).

Hollander teaches the adhesive patch wherein the closed tubular structure is essentially straight (Fig. 1, the tubular structure is on a straight line).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hollander in view of Angelucci (U. S. Patent No. 6,098,300).

Hollander discloses the adhesive patch as described above in paragraph 3.

Hollander does not disclose the adhesive patch wherein the closed tubular structure is provided by an annular shape.

Angelucci discloses a level tube wherein the closed tubular structure is provided by either a symmetrical level (20) or an annular shaped level (32) (Figs. 1 and 5, Col 4, lines 62-65, Col 6, lines 49-65); wherein the annular closed tubular structure is partially filled with a .

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the tubular level of Hollander be annular shaped, as taught by Angelucci, since Angelucci teaches that the annular shape is an alternative shape to the shape of Hollander, which will perform the same function of indicating an orientation of a surface to which the level is attached.

6. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hollander and Angelucci in view of Bedortha (U. S. Patent No. 1,563,321).

Hollander and Angelucci disclose the adhesive patch as described above in paragraph 5 and wherein annular closed tubular structure is partially filled with a liquid, and wherein the visible indicators are provided by the two air-liquid interfaces present within said closed tubular structure, such that upon rotation of said patch, the pre-calibrated markings move relative to said interfaces.

Hollander and Angelucci do not disclose the adhesive patch wherein the closed tubular structure is partially filled with a colored liquid; wherein the colored liquid comprises a fluorescent material; wherein the liquid comprises a light-reflective material.

Bedortha discloses a level wherein the closed tubular structure is partially filled with a colored liquid (Col 2, lines 39-46); wherein the colored liquid comprises a fluorescent material (Col 2, lines 39-46); wherein the liquid comprises a light-reflective material (Col 2, lines 39-46).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the liquid of Hollander and Angelucci be a colored liquid, as taught by Bedortha, in order to more clearly distinguish the liquid from the gas, thereby increasing the accuracy of reading the level orientation.

7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hollander in view of From (U. S. Patent No. 4,375,765).

Hollander discloses the adhesive patch as described above in paragraph 3.

Hollander does not disclose the adhesive patch wherein the pre-calibrated markings are fluorescent markings.

From discloses a level device wherein the pre-calibrated markings are fluorescent markings (Col 6, lines 35-51).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the pre-calibrated markings of Hollander be fluorescent, as taught by From, in order to enhance the readability of the instrument (From, Col 6, lines 35-51), thereby increasing the accuracy of reading the level orientation.

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Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following disclose level devices Prokopis (U. S. Patent No. 5,887,783), Leeds (U. S. Patent No. 5,463,817), Lander (U. S. Patent No. 3,926,144), Baltz (U. S. Patent No. 3,699,661), and Blair (U. S. Patent No. 892,353).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy R. Cohen whose telephone number is (571) 272-2238. The examiner can normally be reached on 8 am - 5 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ARC
June 7, 2007


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